

City Council Regular Meeting

February 27, 2025

RECEIVED

2025 FEB 26 A 11: 53

CITY CLERK'S OFFICE

FRESNO CITY COUNCIL



Public Comment Packet

ITEM(S)

9:15 A.M. (ID 25-132) HEARING for Consideration of Text Amendment Application No. P23-03410 and related Environmental Finding for Environmental Assessment No. P23-03410, amending Sections 15-2761 and 15-6802 of the Citywide Development Code, relating to Tobacco and Vapor Sales, Smoke Shops, and Definitions.

[TITLE TRUNCATED FOR SUPPLEMENTAL PACKET COVER PAGE]

Contents of Supplement: Public comment emails

Item(s)

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

From: [Clerk](#)
To: [REDACTED]
Subject: FW: Input re Tobacco and Smoke Shops
Date: Wednesday, February 26, 2025 11:14:19 AM

Office of the City Clerk

-----Original Message-----

From: Patricia Brown [REDACTED]
Sent: Friday, February 21, 2025 10:18 PM
To: Clerk <Clerk@fresno.gov>
Subject: Input re Tobacco and Smoke Shops

External Email: Use caution with links and attachments

2/21/25

Despite the City budget need for small business revenue, and, as a long-term, 32-year resident of Fresno, I am against anything that expands tobacco and smoke shops in our city. The rapidity of addiction of developing young brains targeted by tobacco companies, the inability and enforcement costs to monitor the sterilization of hookas, and the documented adverse effects upon public health are all strong factors in defeating any expansion.

Patricia Brown
[REDACTED]
Fresno, CA 93727

cc: Dyer, Council members, Districts 1-7

Sent from my iPhone

From: Clerk
To: [REDACTED]
Cc: Clerk
Subject: FW: City Council MeetingFebruary 27, 2025.
Date: Monday, February 24, 2025 11:46:06 AM

From: carmen [REDACTED]
Sent: Monday, February 24, 2025 11:24 AM
To: Clerk <Clerk@fresno.gov>
Subject: City Council MeetingFebruary 27, 2025.

External Email: Use caution with links and attachments

Re 15-2761 and 15-6802 Text:Tobacco and Vapor Sales, Smoke Shops and Definitions

Good morning:

Please count me in as fully supportive of the more appropriate and enhanced regulatory component indicated in Tobacco and Vapor sales Smoke Shops and Definitions indicated in the above subject line.

I have lived in this neighborhood for over 25 years and witness the proliferation of these nuisance businesses. There are several smoke shops walking distance from my home that consistently are used by vagrants that hide in our alley, use it as a toilet, leave trash that the City's code enforcement then is called to dispose of. The cost to the city must be high given the almost 400 such businesses that now exist.

Sales obviously are being made to those under age not only in this Fresno neighborhood but others. Moreover, students at Fresno Unified School District are being sold vapes that disrupt their learning and health. See the following:

FRESNO, Calif. (KFSN) -- The Fresno Unified School District is cracking down on kids vaping on campus. Eight schools have rolled out a pilot program that includes a vape detection system. At Yosemite Middle School, staff is working to keep vapes off campus.

Fresno Unified piloting vape detection system on 8 campuses ...
abc30.com/post/fresno-unified-piloting-vape-...

I look forward to seeing the new text approved as an ordinance.

Kind regards,
Carmen Navarro
[REDACTED]
Council District 3

copies:
Mayor Jerry Dyer
Council president Mike Karbassi
Council-members:
Miguel Arias
Nelson Esparza
Tyler Maxwell
Annalisa Perea
Nick Richardson

From: [Clerk](#)
To: [REDACTED]
Cc: [Clerk](#)
Subject: City Council MeetingFebruary 27, 2025.
Date: Tuesday, February 25, 2025 8:21:29 AM

From: Joshua Serpa [REDACTED]
Sent: Monday, February 24, 2025 11:17 PM
To: Clerk <Clerk@fresno.gov>
Subject: City Council MeetingFebruary 27, 2025.

External Email: Use caution with links and attachments

Re 15-2761 and 15-6802 Text:Tobacco and Vapor Sales, Smoke Shops and Definitions

Here's an expanded and more detailed version of your message:

Subject: Full Support for Strengthened Tobacco & Vapor Sales Regulations

Good evening,

Please count me as fully supportive of stronger and more appropriate regulatory measures regarding tobacco and vapor sales, as well as the revised definitions and oversight of smoke shops outlined in the above subject line.

I have lived in this neighborhood for three and a half years and have personally witnessed the rapid surge of these establishments, which have brought a surge of negative consequences to our community. Within walking distance of my home alone, multiple smoke shops have become magnets for criminal activity and public disturbances. These businesses often serve as gathering points for vagrants who loiter in our alleyways, using them as makeshift toilets and dumping grounds for trash—waste that ultimately falls on the city's code enforcement to clean up.

Even more concerning, we are now facing an alarming rise in youth and homeless individuals engaging in smoking, drug use, and vandalism—not just targeting local businesses but also damaging our residential properties. At all hours of the night, these individuals roam through our streets, breaking windows, defacing homes, and creating an unpredictable, unsafe, and increasingly hostile environment for families, homeowners, and law-abiding residents. This is not the neighborhood we fell in love with, nor the one we envision for the future.

We, as a community, take immense pride in our homes and surroundings, and we are determined to re-elevate this area to the safe, welcoming place it once was. Strengthening the regulatory framework around smoke shops is a crucial step in restoring order and security to our streets. I urge the city to take decisive action in addressing this growing issue.

Thank you for your time and consideration.

Sincerely,

Josh Serpa



Council District 3

copies:

Mayor Jerry Dyer

Council president Mike Karbassi

Council-members:

Miguel Arias

Nelson Esparza

Tyler Maxwell

Annalisa Perea

Nick Richardson

From: [Clerk](#)
To: [REDACTED]
Cc: [Clerk](#)
Subject: City Council MeetingFebruary 27, 2025.
Date: Tuesday, February 25, 2025 8:21:56 AM

From: Joshua Serpa [REDACTED] com>
Sent: Monday, February 24, 2025 11:25 PM
To: Clerk <Clerk@fresno.gov>
Subject: City Council MeetingFebruary 27, 2025.

External Email: Use caution with links and attachments

Re 15-2761 and 15-6802 Text:Tobacco and Vapor Sales, Smoke Shops and Definitions

Good evening,

Please count me as fully supportive of stronger and more appropriate regulatory measures regarding tobacco and vapor sales, as well as the revised definitions and oversight of smoke shops outlined in the above subject line.

I have lived in this neighborhood for three and a half years and have personally witnessed the rapid surge of these establishments, which have brought a surge of negative consequences to our community. Within walking distance of my home alone, multiple smoke shops have become magnets for criminal activity and public disturbances. These businesses often serve as gathering points for vagrants who loiter in our alleyways, using them as makeshift toilets and dumping grounds for trash—waste that ultimately falls on the city’s code enforcement to clean up.

Even more concerning, we are now facing an alarming rise in youth and homeless individuals engaging in smoking, drug use, and vandalism—not just targeting local businesses but also damaging our residential properties. At all hours of the night, these individuals roam through our streets, breaking windows, defacing homes, and creating an unpredictable, unsafe, and increasingly hostile environment for families, homeowners, and law-abiding residents. This is not the neighborhood we fell in love with, nor the one we envision for the future.

We, as a community, take immense pride in our homes and surroundings, and we are determined to re-elevate this area to the safe, welcoming place it once was. Strengthening the regulatory framework around smoke shops is a crucial step in restoring order and security to our streets. I urge the city to take decisive action in addressing this growing issue.

Thank you for your time and consideration.

Sincerely,

Josh Serpa

[REDACTED]

Council District 3

copies:

Mayor Jerry Dyer

Council president Mike Karbassi

Council-members:

Miguel Arias

Nelson Esparza

Tyler Maxwell

Annalisa Perea

Nick Richardson

From: [Clerk](#)
To: [REDACTED]
Cc: [Clerk](#)
Subject: FW: Subject: ID 25-132 Hearing for Consideration of Text Amendment relating to Tobacco and Vape Sales, Smoke Shops and Definitions
Date: Wednesday, February 26, 2025 8:24:30 AM

From: Ismael Gimeno [REDACTED]
Sent: Tuesday, February 25, 2025 6:01 PM
To: Clerk <Clerk@fresno.gov>
Subject: Subject: ID 25-132 Hearing for Consideration of Text Amendment relating to Tobacco and Vape Sales, Smoke Shops and Definitions

External Email: Use caution with links and attachments

Good Afternoon,

This letter is to express my strongest support to the approval of subject item to be addressed by the Fresno Council Meeting scheduled for Thursday, February 27, 2025. Item ID: 25-132.

As a resident of Fresno for the past 10 years, I am very concened by the proliferation of Smoke Shops and all the illegal activities conducted in some of them, as identified in the final version of the CAPP Powerpoint presentation submitted to the Fresno Mayor and the Fresno City Council Members.

Fresno is a growing, vibrant City that needs to maintain a livable environment for the current and new residents. Some of the violations documented in the CAPP report are very detrimental to our quality of life here. They generate and amplify violence and addiction, to youngsters and adults. In many cases not only affecting delinquents and violent people but also innocent/productive members of the community who were innocent bystanders to the acts of the violence perpetrated by those delinquents.

Financial considerations, such as revenue from those businesses, should not be an obstacle to having safe legislation for the community. Legal tobacco and/or vape business who play by the rules and also provide revenue to the City of Fresno. Please, let's weed out the dangerous and illegal ones.

I look forward to the Fresno City Council approving the text of the proposed measure, not only because it is best for the community that they are serving, but also because it is the right thing to do for us, our children, and grandchildren.

Respectfully,

Ismael Gimeno

Cell: [REDACTED]

Email: [REDACTED]

"Traveler, there is no path, the path is made by walking". Antonio Machado

From: [Clerk](#)
To: [REDACTED]
Cc: [Clerk](#)
Subject: Public Comment: Agenda Date 2/27/25; ID: 25-132
Date: Wednesday, February 26, 2025 9:02:11 AM

From: Dulce Velazquez [REDACTED]
Sent: Wednesday, February 26, 2025 9:00 AM
To: Clerk <Clerk@fresno.gov>
Subject: Public Comment: Agenda Date 2/27/25; ID: 25-132

External Email: Use caution with links and attachments

Hello, this is public comment for item: 25-132: Tobacco and Vapor Saes, Smoke Shops, Definitions.

"My name is Dulce Velazquez and I am a member of the Fresno County Tobacco-Free Coalition and resident of Fresno, District 2. While the Coalition appreciates the intentions behind the smoke shop ordinance, we also ask you to consider the public health impacts of all tobacco retailers on our communities. Regardless of type, these stores contribute to the oversaturation of tobacco availability and exacerbate health inequalities in Fresno. Unfortunately, the Smoke Shop Ordinance and existing ordinances, such as the Responsible Neighborhood Market Act, do not regulate tobacco products, including flavors. While smoke shops are a concern, the need to address illegal tobacco sales among all types of tobacco retailers is apparent, and a Tobacco Retail License (TRL) can be part of a sustainable solution. The Fresno County Tobacco-Free Coalition is well-versed in TRL ordinances and would greatly appreciate the opportunity to continue collaborating with Council on this critical public health issue. Thank you"

From: [Clerk](#)
To: [REDACTED]
Subject: FW: February 27, 2025 - ID 25-132
Date: Wednesday, February 26, 2025 10:09:59 AM
Attachments: [REDACTED] [Letter to City Council.pdf](#)

Mary Quinn

Senior Deputy City Clerk
Office of the City Clerk

From: Garrett Wade [REDACTED] >
Sent: Tuesday, February 25, 2025 6:51 PM
To: Clerk <Clerk@fresno.gov>
Cc: Todd Wynkoop [REDACTED]; Ella Moberg
[REDACTED]; Patricia Mata [REDACTED]
Subject: February 27, 2025 - ID 25-132

External Email: Use caution with links and attachments

Good afternoon,

Attached, please find correspondence on behalf of the California Smoke Shops Association regarding the City Council's February 27, 2025 public hearing on ID 25-132.

Please advise if you are unable to open the attachment.

Thank you,
Garrett Wade
Associate

[McCormick Barstow LLP](#)
[REDACTED]
[REDACTED]



**McCORMICK
BARSTOW LLP**
ATTORNEYS AT LAW

February 25, 2025

VIA EMAIL ONLY

Todd A. Wynkoop
[REDACTED]

Ella Moberg
[REDACTED]

Garrett J. Wade
[REDACTED]

FRESNO, CA OFFICE
7647 North Fresno Street
Fresno, California 93720
[REDACTED]

City of Fresno
City Council
2600 Fresno Street
Fresno, CA 93721
[REDACTED]

Re: ID 25-132: Comments on Text Amendment Application No. P23-03410
Submitted on Behalf of the California Smoke Shops Association

Dear Councilmembers:

We have been retained by the California Smoke Shops Association (“CSSA”) regarding Text Amendment Application No. P23-03410¹ and related Environmental Finding for Environmental Assessment No. P23-03410, which will amend Sections 15-2761 and 15-6802 of the Citywide Development Code relating to Tobacco and Vapor Sales, Smoke Shops, and Definitions (the “Proposed Amendment”). The Planning Commission recommended approval of the Proposed Amendment with modifications at a public hearing on February 19, 2025 at 6:00 p.m. (ID 25-160.) The Proposed Amendment is now set to be considered by Fresno City Council on February 27, 2025 at 9:15 a.m. (ID 25-132.)

We submit these comments on behalf of the CSSA and its members. As outlined below, we urge you to reject the Proposed Amendment.

The Retroactive Application of the Proposed Amendment Would Lead to the Closure of Numerous Properly Licensed Smoke Shops and Impose Disparate Obligations on Those Remaining

As you are aware, the Proposed Amendment will require new and existing smoke shops to obtain a Conditional Use Permit (“CUP”) to continue operating their businesses. While we do not question the power of the City to enact ordinances that proactively alter the General Plan, the retroactive application of the Proposed Amendment exceeds the City’s police and regulatory powers. Simply put, the City’s proposed retroactive application of CEQA as a weapon would violate the rights of existing small business owners in the City.

An analysis of the practical impact of the retroactive application of the Proposed Ordinance demonstrates the problem. First, the Proposed Amendment would limit the number of available CUPs to seven smoke shops in each City Council District for a

¹ In some contexts, the Proposed Amendment is also identified as Text Amendment Application No. P24-02419.

Other offices of
McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

www.mccormickbarstow.com

CINCINNATI, OH OFFICE
Scripps Center
312 Walnut Street, Suite 3425
Cincinnati, Ohio 45202-4064
Telephone (513) 762-7520
Fax (513) 762-7521

LAS VEGAS, NV OFFICE
8337 West Sunset Road, Suite 350
Las Vegas, Nevada 89113
Telephone (702) 949-1100
Fax (702) 949-1101

MODESTO, CA OFFICE
1125 I Street, Suite 1
Modesto, California 95354
Telephone (209) 524-1100
Fax (209) 524-1188

RENO, NV OFFICE
201 W. Liberty Street, Suite 320
Reno, Nevada 89501
Telephone (775) 333-0400
Fax (775) 333-0412

SAN LUIS OBISPO, CA OFFICE
1041 Mill Street, Suite 105
San Luis Obispo, California 93401
Telephone (805) 541-2800
Fax (805) 541-2802

VISALIA, CA OFFICE
403 North Floral
Visalia, California 93291-4950
Telephone (559) 433-1300
Fax (559) 433-2300

total of 49 smoke shops City-wide. Assuming (1) the accuracy of the City's PowerPoint Presentation, there are 82 licensed and permitted smoke shops currently operate in the City of Fresno, rather than the higher number indicated by other sources,² and (2) the City issues all 49 CUPs to existing smoke shops, then the Proposed Amendment would force 33 existing, properly licensed and permitted smoke shops to permanently shutter their doors. The casualties of this undirected and arbitrary exercise of City power would result in 33 business owners deprived of their investment-backed expectations in their existing business, their employees, and the families of both.

In addition, the Proposed Amendment imposes additional duties and requirements on smoke shops alone (as compared to others among the significantly greater number of purveyors of tobacco products) that bear no reasonable relation to the use of property for which the CUP is required, including landscaping, lighting, litter and graffiti management, as well as vending machine prohibitions, and requirements for video surveillance, signage, window glazing, loitering, and training. In each of these cases, the Proposed Amendment directly targets CSSA members while ignoring other businesses that sell tobacco products. Including, in the case of convenience stores, liquor stores and grocery stores, those that sell tobacco products and alcohol.

Supporters of the Proposed Amendment claim it is an exercise of the City's police power intended to eliminate unlicensed smoke shops, address other alleged unlawful activities and/or violations by some smoke shops, and other alleged activities purportedly attributed to third persons near smoke shops. But in so doing, the Proposed Amendment ignores other similarly situated businesses with similar potential problems. The Proposed Amendment would impose requirements, restrictions, and harsh penalties on smoke shops, but not other business that sell similar products (including alcohol) and attract similar customers, including but not limited to convenience stores, liquor stores, gas stations, and grocery stores. Additionally, the Proposed Amendment conveniently ignores cannabis dispensaries entirely, thereby (perhaps intentionally) giving those dispensaries an unfair economic advantage through drastically reduced competition. Indeed, the City acknowledges at least 472 licensed tobacco retailers who are expressly excluded from compliance under the Proposed

² It certainly is less than clear whether the City actually knows the number of shops. However, City Attorney Andrew Janz indicated there have been over 100 raids on smoke shops in Fresno. Other estimates place the number of smoke shops in the City at 89, 119, 140, or more than 400. (See, e.g., Morris, Ben, *Ordinance limiting Fresno smoke shops heads to city council* (Feb. 20, 2025), YourCentralValley, <https://www.yourcentralvalley.com/news/local-news/ordinance-limiting-fresno-smoke-shops-heads-to-city-council/> [89 smoke shops]; Smith, Edward, *How Many Smoke Shops Is Too Many? Fresno Plan Would Allow Only 49* (Nov. 12, 2024), GVWire, <https://gvwire.com/2025/01/16/planning-commission-says-fresno-smoke-shop-plan-hurts-good-biz-owners-arias-says-pc-is-out-of-touch/> [400 smoke shops]; Hok, Soreath, *'Slippery slope' or needed regulation? Fresno eyes new rules for smoke shops* (Oct. 13, 2023), KVPR, <https://www.kvpr.org/local-news/2023-10-13/slippery-slope-or-needed-regulation-fresno-eyes-new-rules-for-smoke-shops> [119 smoke shops] (visited Feb. 25, 2025).)

Amendment. Though given the disparity with the City's other estimates, this number is likely even higher.

Given the impact of the Proposed Amendment, it is not surprising that its enactment and enforcement would violate one or more rights guaranteed in the United States and California Constitutions.

Retroactive Application of the Proposed Amendment Would Deprive Numerous Smoke Shop Owners of their Rights without Due Process and in Violation of the Business Owners' Equal Protection Rights

The Proposed Amendment implicates each licensed smoke shop owner's rights under the Fourteenth Amendment and the California Constitution. The Fourteenth Amendment of the United States Constitution prohibits States from depriving any person of life, liberty, or property without due process of law or from denying any person within its jurisdiction the equal protection of the laws. Likewise, the California Constitution prohibits the denial of equal protection. The concept of equal protection of the laws compels recognition of the proposition that persons similarly situated with respect to the legitimate purpose of the law receive like treatment.

Here, the Proposed Amendment treats similarly situated businesses and business properties differently. The Proposed Amendment deprives shop owners of their businesses without any individualized process at all. It does not seek to separate "bad actors" from "good actors" through any type of process. It does not afford a hearing. It simply eliminates businesses. Moreover, it does so by limiting the number of smoke shops per City Council District, without regard to how many legitimate shops are in each District.

Under the equal protection clause of the U.S. Constitution and California Constitution, if a law, ordinance, or regulation affects two or more similarly situated groups in unequal manners, such legislation must be rationally related to the realistically conceivable, legitimate legislative purpose. But instead of regulating the sale of tobacco for all businesses located within the City of Fresno, the Proposed Amendment arbitrarily targets smoke shops, which are only a small subset of the businesses that sell tobacco products. Owners of grocery stores, convenience stores, gas stations, liquor stores, and cannabis dispensaries are free to continue selling tobacco and tobacco paraphernalia without obtaining a CUP or complying with the conditions imposed for the issuance of a CUP. Smoke shops are singled out and precluded from continuing their business without first obtaining a CUP. Notably, there are not enough permits for all currently licensed and permitted smoke shops to secure approvals, resulting in forced closure of numerous smoke shops currently existing in the City of Fresno. Since the City of Fresno provides no rational basis for treating smoke shops differently from grocery stores, convenience stores, gas stations, liquor stores, cannabis dispensaries, and others who sell tobacco products, the Proposed Amendment violates the due process and equal protection clauses of the United States and California Constitutions.

Retroactive Application of the Proposed Amendment Would Exact a Regulatory Taking of Numerous Smoke Shops Triggering Millions of Dollars in Compensation to the Affected Owners

If the Proposed Amendment is not invalidated for violating the Fourteenth Amendment, it most certainly will implicate the Takings Clause of the United States Constitution. As discussed above, under the most optimistic estimate the Proposed Amendment would target and close 33—at minimum, and likely more—properly licensed, permitted, and operating smoke shops, depriving their owners (and employees) of the investment-backed expectations in their properly permitted and licensed businesses.

Under the Fifth Amendment, a regulatory taking is an unreasonable exercise of a public entity's police power that eliminates or diminishes the value of property or interferes with a person's investment-backed expectations without just compensation. If passed, the Proposed Amendment would invariably force numerous smoke shop businesses in the City to permanently close their doors because there simply are not enough CUPs available. As to those that remain open, the Proposed Amendment imposes various unreasonable operational requirements, including landscaping, lighting, litter and graffiti, vending machines, video surveillance, signage, window glazing, loitering, and training.

Put simply, the Proposed Amendment interferes with the investment-backed expectations of legally licensed and permitted smoke shops that currently comply with and satisfy State and local laws and regulations. Indeed, many law-abiding, licensed smoke shop owners will be forced to suspend operations indefinitely regardless of compliance with the broad requirements and restrictions in the Proposed Amendment. Certainly collectively, and in many cases, individually, these restrictions constitute a regulatory taking by depriving smoke shop business owners of their ability to continue operating their businesses. ***Such a taking requires the City of Fresno to pay each and every smoke shop owner just compensation.*** This just compensation would likely cost Fresno taxpayers tens of millions of dollars—if not hundreds of millions of dollars. In addition, the City will suffer millions of dollars in lost tax revenue per year from shuttered businesses and simultaneously experience significant increases in local unemployment from the displacement of hundreds of terminated employees following the amortization period in the Proposed Amendment.

Although the State (and by extension the City) does have an interest in regulating the tobacco industry, such interest is already achieved under current State laws and regulations. The Proposed Amendment does not achieve that interest; rather, it impermissibly favors a subset of tobacco retailers at the expense of others by impeding competition. The Proposed Amendment is therefore not reasonably necessary to effect that interest and serves only as an unjust taking.

Retroactive Application of the Proposed Amendment Improperly Weaponizes CEQA Against Independent Business Owners Rather than Use it Properly as a Development Tool

The primary purpose of CEQA is to inform decision makers and the public about the *potential*, significant effect of *proposed* projects, attempt to mitigate those impacts, reduce impacts and disclose the basis of approvals of projects. As the highlighted language makes clear, each of these goals is *prospective*. CEQA is intended to judge the future impacts of a project prior to the decision maker approving the project. The Proposed Amendment departs from these goals entirely. In so doing, it turns CEQA into a blunt instrument retroactively aimed at uses already approved under the General Plan and operating consistently with the plan. But CEQA is not a weapon against disapproved activities. It is properly used as tool to control potential development and mitigate environmental impacts.

Moreover, the proposed use of a CUP is improper. A CUP regulates land, not individuals. Conditions on approval must reasonably relate to the use of property for which the conditional use permit is requested. The Proposed Amendment is aimed at individual smoke shop owners – its goal it to put them out of business – rather than the land on which they run their businesses.

Finally, smoke shop owners have a vested right to continue using their property in conformance with existing rules and regulations. “The law recognizes a vested right to continue a use which existed at the time zoning regulations changed and the use thereafter became a nonconforming use.” If the Proposed Amendment is adopted, business owners’ existing, conforming uses will suddenly become “nonconforming” uses. Rather than using the permitting process to allow for business owners to continue their operations as previously conforming uses, the CUP requirements here are instead being weaponized to declare past conforming uses as nonconforming uses, which is an improper exercise of police power by the City.

We appreciate the opportunity to submit these comments and appreciate your consideration.

Very truly yours,



Todd Wynkoop
Ella Moberg
Garrett J. Wade
McCormick Barstow LLP

From: [Clerk](#)
To: [REDACTED]
Subject: FW: Smoke Shop Ordinance
Date: Wednesday, February 26, 2025 11:16:40 AM

Office of the City Clerk

From: Gabriela Olea [REDACTED]
Sent: Wednesday, February 26, 2025 10:05 AM
To: Clerk <Clerk@fresno.gov>; Todd Stermer [REDACTED]
Subject: FW: Smoke Shop Ordinance

From: Eric Payne [REDACTED]
Sent: Wednesday, February 26, 2025 10:03 AM
To: Miguel Arias [REDACTED]; Gabriela Olea [REDACTED]
Subject: Smoke Shop Ordinance

External Email: Use caution with links and attachments

| Electronic Transmission |

Fresno City Council
2600 Fresno Street
Fresno, CA 93721

Dear Honorable Miguel Arias,

I am writing to express my strong support for the proposed ordinance aimed at limiting the number of smoke shops in Fresno and enforcing stricter regulations on these businesses. As the council prepares to consider this important legislation, it is crucial to consider not only the economic impacts but also the broader implications for public safety, neighborhood well-being, and the city's long-term vision for a thriving, safe community.

The proposed ordinance, which limits the number of smoke shops per district and restricts their proximity to schools and sensitive sites, directly addresses significant

concerns that have emerged in the city. The evidence presented by Fresno Planning Commissioners and city officials regarding code violations at several smoke shop locations — including illegal activities such as marijuana sales, gambling, and possession of firearms — highlights the critical need for regulatory oversight. It is concerning to think that businesses operating within our community may be contributing to crime and safety hazards rather than fostering a healthy environment.

While some business owners argue that this ordinance unfairly targets them, it is important to recognize that the ordinance is not a blanket attack on small businesses but a necessary step to address violations of public safety and health regulations. The city already has the legal authority to regulate businesses that do not adhere to zoning and safety codes. The proposed action is not aimed at shutting down legitimate businesses, but rather ensuring that those who fail to meet standards are held accountable. It is also worth noting that this action is consistent with broader trends in municipal governance, where cities across the nation are taking a more cautious and regulated approach to businesses that can contribute to neighborhood blight. Much like alcohol licenses, which restrict the number of bars in a district to mitigate negative social impacts, smoke shops must be held to similar standards to ensure they are operating in a way that benefits the community and doesn't undermine public health or safety.

Furthermore, while some may view this ordinance as overreaching, the reality is that cities are often required to balance the needs of the business community with the safety and well-being of the general public. The proposed legislation offers reasonable exemptions, such as a grandfathering process for existing businesses, which reflects a thoughtful attempt to accommodate long-standing business owners while still advancing necessary reforms.

In light of these points, we stand in strong support for City Council to adopt the proposed ordinance and take a firm stance in regulating smoke shops to ensure that they operate in a manner that aligns with the city's public safety and community health objectives. This ordinance will help ensure a cleaner, safer Fresno for future generations.

Thank you for considering our support for this important initiative.

In Community,

Eric Payne

Executive Director

[REDACTED]

[REDACTED]

Fresno, CA 93727

[REDACTED]